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2
3 UNITED STATES DISTRICT COURT
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5 DEVONTAY AYCOCK, Case No. 3:23-cv-00079-ART-CSD
6 Petitioner,
7 v.
8 ELY STATE PRISON,
9 Respondents.

ORDER

10 Petitioner Devontay Aycock, a *pro se* Nevada prisoner, has not properly
11 commenced this habeas action by either paying the standard \$5.00 filing fee or
12 filing a complete application for leave to proceed *in forma pauperis* ("IFP"). He
13 submitted a Petition for Writ of Habeas Corpus (ECF No. 1-1) under 28 U.S.C.
14 § 2254, but he did not pay the \$5 filing fee or submit a complete IFP application.

15 Pursuant to 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of
16 Fees, a \$5.00 filing fee is required to initiate a habeas action in a federal district
17 court. The court may authorize an indigent prisoner to begin a habeas action
18 without paying the \$5 fee if he or she submits an IFP application on the approved
19 form and includes three specific documents: (a) the prisoner's financial
20 declaration and acknowledgement showing an inability to prepay fees and costs,
21 (b) a financial certificate signed by the prisoner and an authorized prison official,
22 and (c) a copy of the prisoner's account statement for the six-month period prior
23 to filing. 28 U.S.C. § 1915(a); LSR 1-1, LSR 1-2.

24 Here, Petitioner has requested IFP status to waive his filing fee. However,
25 his application is incomplete because he did not submit a financial certificate
26 signed by an authorized prison official and did not submit a copy of his prisoner's
27 account statement for the six-month period prior to filing. Petitioner's IFP
28 application lacks the appropriate financial information and documentation

1 required by § 1915(a) and the Local Rules and is therefore denied without
2 prejudice.

3 Petitioner will have 45 days from the date of this order to either pay the \$5
4 filing fee or submit a complete IFP application with all required documentation.

5 **IT THEREFORE IS ORDERED:**

- 6 1. The initial screening of Petitioner's Petition for Writ of Habeas Corpus
7 (ECF No. 1-1) under the Rules Governing Section 2254 Cases is deferred
8 to until such time as he has fully complied with this order.
- 9 2. The Clerk of Court is instructed to send Petitioner a blank form IFP
10 application for incarcerated litigants along with *two* copies of this order.
- 11 3. **Within 45 days of the date of this order**, Petitioner must file an IFP
12 application that includes a: (a) financial certificate signed by Petitioner
13 and an authorized prison official, (b) financial declaration and
14 acknowledgement signed by Petitioner, and (c) copy of Petitioner's
15 inmate account statement for the six-month period prior to filing.
16 Alternatively, Petitioner must pay the \$5 filing fee within 45 days. If
17 Petitioner decides to pay the filing fee from his inmate account, he must
18 arrange to have a copy of this order attached to the check for the filing
19 fee.
- 20 4. Petitioner's failure to comply with this order within 45 days by (a)
21 submitting a complete IFP application, or (b) paying the filing fee will
22 result in the dismissal of this action without prejudice and without
23 further advance notice.

24 DATED THIS 14th day of March 2023.

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27 ANNE R. TRAUM
28 UNITED STATES DISTRICT JUDGE